IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIIL APPELLATE JURISDICTION

FARAD CONTINUATION SHEET. CIVIL

CIVIL APPLICATION ST. NO.245 OF 2005

IN SECOND APPEAL NO. 460 OF 1997

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Office Notes,Office Memorandum of appearances,Court's orders or directions & Registrar's	Coram, Court's or Judge's Orders orders

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CORAM: A.S. OKA, J.
DATE : 8TH APRIL 2005.

P.C.:

1. Heard Shri V.Z. Kankaria, Advocate for the Applicants. The learned Counsel appearing for the Respondents has stated that a sum of Rs.37,000/- is deposited by the Appellant-Original Plaintiff in the Trial Court. One of the grievance in this application was that the original Appellant is in arrears of sum of Rs.28,800/- in terms of order dated 6th October 1997 passed in Civil Application No.5129 of 1997. The said grievance does not survi ve.

2. Prayer (b) of this application reads thus :-

" The Interim order passed by this Hon'ble Court dated 6.10.1997 in Civil Application No.5129 of 1997 be modified as "any two successive defaults made in the payment, this interim order shall stand vacated and cancelled automatically " instead of three consequitive defaults."

3. Prayer (b) can n ot be granted as after hearing both th e parties, in the order dated 6th October 1997, it is directed that the order of interim relief will stand vacated if there are 3 successive defaults. In so far as Prayer Clause (c) is concerned, it can not be granted as the amount of Rs.1200/- per month was fixed by this Court after hearing of both the parties. Prayer Clause (d) does not survive in view of

deposit of sum of Rs.28,800/- by the Original Appellant. So far as Prayer Clause (e) is concerned, it is to be noted here that while passing order dated 6th October 1997 on application for interim relief, it is brought to the notice of this Court that sum of Rs.7,67,693.30/- and more was payable by the Appellant only after considering the said fact, order dated 6th October 1997 is passed.

4. In view of what is stated in above, there is no merit in the application and the same is rejected.

Judge.